

Application No. 10/017,877
Amendment dated December _____, 2004
Reply to Final Office Action dated October 17, 2004

REMARKS/ARGUMENTS

Applicants have carefully reviewed the Final Office Action dated October 19, 2004, regarding the above-referenced patent application. This response is timely submitted within the Two Month Priority Period set to expire on December 19, 2004. Currently, claims 1-12 are pending in the application, wherein claims 1-6 and 10-12 have been withdrawn from consideration. Claims 7-9 stand rejected by the Examiner. Claim 7 has been amended with this Amendment. Favorable consideration of the amendment and following remarks is respectfully requested in an attempt to expedite the prosecution of this application.

Claims 7-9 stand rejected under 35 U.S.C. §102(b) as being anticipated by Yurek et al., U.S. Patent No. 5,662,703 (hereinafter Yurek). The Examiner asserts that Yurek disclose a filter retrieval catheter as claimed. Applicants respectfully traverse this rejection.

Claim 7 teaches a filter retrieval catheter including a tip member including a rolling member adapted and configured to transition between a first tapered position for advancing to a filter and a second expanded position for receiving a filter. Applicants respectfully assert Yurek fails to teach the invention as currently claimed.

Yurek seems to teach a rolling membrane stent delivery device. The device in Yurek is intended to be used to deliver and place an implantable prosthesis in a body lumen. (See col. 1, lines 7-12). Applicants respectfully assert the device in Yurek cannot function as a filter retrieval catheter as currently claimed. The device in Yurek includes an inner catheter, an outer catheter and a sheath doubled over upon itself for retaining a stent prior to deployment in a vessel. The sheath is attached to the inner catheter and the outer catheter. In a first position, the sheath retains an expandable stent in a reduced state. To release the stent, the outer catheter is moved proximally to roll the sheath away from its surrounding relation to the stent. When completely retracted to a second position after stent release, the sheath surrounds a distal region of the inner catheter. (See col. 2, line 35 through col. 3, line 21).

Applicants assert that in neither position is the device in Yurek able to retrieve a filter from a vessel. In the first, delivery position, the sheath has an inside diameter no larger than the outside diameter of the inner catheter. (See col. 2, lines 52-57). In this reduced diameter position, as shown in Figure 2, the device is incapable of retrieving a filter from a vessel. In order to retrieve a filter from a vessel, the sheath must be sufficiently sized to accommodate a

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filter. This is not the case in Yurek, where the first, delivery position is intended to provide the catheter with a low profile.

Likewise, the stent delivery device of Yurek is also incapable of retrieving a filter from a vessel in the second, retracted position of the sheath. In this position the sheath is retracted proximally and surrounds a distal region of the inner catheter, thus the distal end of the inner catheter becomes the distal tip of the device. (See col. 6, lines 50-67). It is apparent that in this retracted position, the sleeve is incapable of receiving a filter.

Applicants assert that Yurek fails to teach what is claimed in claims 7-9, and cannot function as a filter retrieval catheter as currently claimed. Claims 7-9 are believed to be in condition for allowance.

Claims 7-9 stand rejected under 35 U.S.C. §102(b) as being anticipated by Hall, U.S. Patent No. 4,324,262 (hereinafter Hall). The Examiner asserts that Hall discloses a catheter as currently claimed. Applicants respectfully traverse this rejection.

Claim 7 teaches a filter retrieval catheter including a tip member including a rolling member adapted and configured to transition between a first tapered position for advancing to a filter and a second expanded position for receiving a filter. Applicants respectfully assert Hall fails to teach the invention as currently claimed.

Hall seems to teach an aspirating culture catheter for pristine isolation of a portion of a body cavity. The device in Hall is intended to be used to take a pristine sample from a body lumen. (See col. 2, lines 17-20). Applicants respectfully assert the device in Hall cannot function as a filter retrieval catheter as currently claimed. The device in Hall includes a pair of concentric tubes and a cylindrical membrane having either end connected to either the inner or outer tube, as shown in Figure 1. The inner tube extends through the outer tube and is axially moveable with respect to the outer tube. (See col. 4, lines 57-60). In a first position, as shown in Figure 1, the membrane is in a sealed position, thereby preventing contaminants from entering the inner tube. (See col. 5, lines 25-31). It is apparent that if contaminants cannot pass through the sealed membrane, then a filter surely would be unable to pass through the seal.

In the second position, as shown in Figure 3, the inner tube is extended such that the membrane becomes fully extended into a cylinder. (See col. 5, line 67 through col. 6, line 2).

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In this position, the inner tube is the most distal element of the invention. It is apparent that the membrane is unable to receive a filter in the second position.

Applicants assert that in neither position is the device in Hall able to retrieve a filter from a vessel. In the first position the membrane is sealed, therefore, not allowing any material to pass through. In this position, as shown in Figure 1, the device is incapable of retrieving a filter from a vessel. In order to retrieve a filter from a vessel, the membrane must be open to accommodate a filter. This is not the case in Hall, where the first position is intended to provide the catheter with a sealed, pristine chamber. Likewise, the device is not configured to receive a filter in the second position. As shown in Figure 3, the inner tube extends distal of the membrane and is not adapted to receive a filter.

Applicants assert that Hall fails to teach what is claimed in claims 7-9, and cannot function as a filter retrieval catheter as currently claimed. Claims 7-9 are believed to be in condition for allowance.

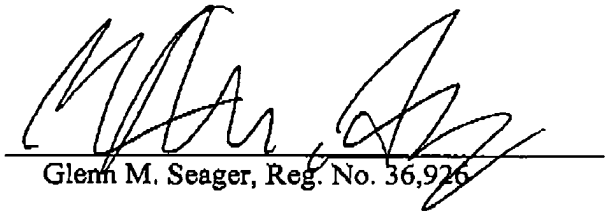
Reexamination and reconsideration is respectfully requested. Applicants assert that claims 7-9 are currently in condition for allowance and issuance of a Notice of Allowance in due course is anticipated. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

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By their attorney,

Date: Nov. 30, 2004


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